

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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WARMANN E. DIPOUMBI,	:	
	:	
Plaintiff,	:	09 Civ. 10162 (KBF) (DCF)
	:	
-v-	:	<u>MEMORANDUM & ORDER</u>
	:	
CITY OF NEW YORK, et al.,	:	
Defendants.	:	
-----X	:	

KATHERINE B. FORREST, District Judge:

Plaintiff Warmann E. Dipoumbi brings this action under 42 U.S.C. § 1983 and New York state law against the City of New York, the New York Police Department, and Police Officer Armando Urbina (collectively, "Defendants"). Defendants have moved for summary judgment.

Plaintiff, by his own admission, "does not contest" Defendant's motion for summary judgment except as to his *prima facie* tort claim. Accordingly, the Court grants summary judgment in Defendants' favor as to all claims which Plaintiff concedes--i.e., all claims for violations of 42 U.S.C. § 1983, as well as Plaintiff's state law claims for false arrest, malicious prosecution, negligence, gross negligence, assault, battery, abuse of process, and negligent hiring and retention.

Plaintiff's claim for *prima facie* tort under New York state law is the only remaining claim. Having dismissed all claims

over which it has jurisdiction, the Court, in its discretion, declines to exercise supplemental jurisdiction over the *prima facie* tort claim. See 28 U.S.C. § 1367(c)(3); see also Klein & Co. Futures, Inc. v. Bd. of Trade of City of N.Y., 464 F.3d 255, 262-63 (2d Cir. 2006).

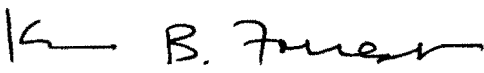
CONCLUSION

For the aforementioned reasons, Defendants' motion for summary judgment is GRANTED as to the claims for violations of 42 U.S.C. § 1983, false arrest, malicious prosecution, negligence, gross negligence, assault, battery, abuse of process, and negligent hiring and retention. The Court declines to exercise jurisdiction over the *prima facie* tort

The Clerk of Court is directed to terminate this case.

SO ORDERED:

Dated: New York, New York
November 23, 2011



KATHERINE B. FORREST
United States District Judge